

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2986

SPONSOR: Education Committee and Senator Constantine

SUBJECT: Education Personnel

DATE: March 31, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dormady</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

CS/SB 2986 amends sections of law relating to teacher certification, education, recruitment, retention and discipline, and background screening for educational personnel. The bill makes the following general changes:

- It prohibits applicants for employment or licensure by the Department of Education (DOE), university lab schools, charter schools, and private or parochial schools from denying or failing to acknowledge arrests covered by an expunged or sealed criminal record.
- It requires background screening for contractual personnel, certain instructional and noninstructional personnel, charter school employees and charter school governing board members.
- It requires background screening as an element of eligibility for educator certification.
- It adds a new testing option that students may pass in seeking admission into teacher preparation programs.
- It authorizes certain postsecondary institutions to develop and implement programs to offer persons with baccalaureate degrees short-term experience as teacher assistants.
- It authorizes new initiatives to assist in teacher retention.
- It adopts substantial new requirements for substitute teachers.
- It requires the DOE to identify appropriate certification for specific courses funded through the Florida Education Finance Program (FEFP).
- It requires an affidavit regarding the contents of the application for teacher certification and permits the use of certificates issued by certain additional educator credentialing boards.

- It requires educators and applicants to maintain current addresses with districts and the DOE.
- It revises certain provisions for the renewal of educator certificates by educators who complete training in the teaching of reading.

The bill also makes certain changes to the Education Practices Commission (EPC), the recovery network program for educators, and other aspects of teacher discipline and treatment as follows:

- It revises the composition of panels of the EPC that review final orders.
- It revises the EPC's power to suspend and revoke educator certificates.
- It revises mandatory certification revocation provisions.
- It revises notification procedures and parties involved in investigations of complaints against certificateholders and applicants for certification.
- It requires other agencies to provide information to enhance investigations.
- It provides additional requirements for educators placed on probation.
- It extends participation in the educator recovery network program to applicants for certification as well as certificateholders.
- It establishes that participation in the recovery network program may be voluntary or mandatory and revises other provisions regarding participation in the program.

This bill substantially amends the following sections of the Florida Statutes: 943.0585, 943.059, 1002.33, 1004.04, 1012.05, 1012.32, 1012.35, 1012.39, 1012.55, 1012.56, 1012.57, 1012.585, 1012.79, 1012.795, 1012.796, and 1012.798. It creates the following sections of the Florida Statutes: 1004.85, 1012.465, and 1012.561.

The bill will take effect upon becoming law.

## II. Present Situation:

### *Definitions of certain agencies and other entities referred to in the bill*

National Board for Professional Teaching Standards NBPTS is an independent, nonprofit, nonpartisan organization governed by a board of directors, the majority of whom are classroom teachers. The NBPTS Standards detail what constitutes accomplished teaching in every subject and for students at all stages of their development. For individual teachers, NBPTS Standards provide a career-long learning curriculum for accomplished teaching. National Board Certification by the NBPTS measures a teacher's practice against these standards. The certification process is an extensive series of performance-based assessments that includes teaching portfolios, student work samples, videotapes, and analyses of the candidates' classroom teaching and student learning. Teachers also complete a series of written exercises that probe the depth of their subject-matter knowledge, as well as their understanding of how to teach those subjects to their students.

Recovery Network Program for Educators The Recovery Network Program provides assistance to educators who are impaired as a result of alcohol abuse, drug abuse, or a mental condition, in obtaining treatment to permit their continued contribution to the education profession. Any person who holds an educator's certificate issued by the Florida Department of Education

pursuant to s. 1012.56, F.S., may participate in the program. Under current practice, an educator becomes enrolled in this program via one of three avenues: voluntary contract agreement, non-voluntary as a result of a final order, or by a deferred prosecution agreement.

Education Practices Commission The EPC is tasked with investigating complaints against certified educators and investigating applicants for educator certification. According to the DOE, the Commission performs over 2,500 investigations every year. Investigations may result in prosecution of educators or denial of certification.

***Certain provisions of current law impacted by the bill***

Sections 943.0585 and 943.059 Sections 943.0585 and 943.059, F.S., provide for the expunction and court-ordered sealing, respectively, of criminal history records under certain circumstances. Generally, persons who are subject to a criminal history record that is expunged or sealed under any section of law may lawfully deny or fail to acknowledge arrests covered by the expunged or sealed criminal history record. Certain categories of persons are currently prohibited from taking advantage of this permission to lawfully deny or fail to acknowledge these arrests, however, including persons seeking to be employed or licensed by:

- the Office of Teacher Education, Certification, Staff Development, and Professional practices of the DOE
- any district school board, or
- any local governmental entity that licenses child care facilities.

Section 1004.04. Currently, teacher preparation programs approved by the DOE must require students to meet certain prerequisites for admission into their programs, including mastery of general knowledge. This mastery may be demonstrated by passing the College Level Academic Skills Test, a corresponding component of the National Teachers Examination series, or a similar test pursuant to rules of the State Board of Education.

Section 1012.05 Section 1012.05, F.S., currently contains several provisions relating to the recruitment and, to a lesser degree, retention of teachers.

Sections 1012.35 and 1012.39 Under current law, district school boards are required to adopt rules regarding the employment of, and minimum qualifications for, substitute teachers. Procedures for employment of substitute teachers and minimum qualifications for substitute teachers established by district school boards must include only the filing of a complete set of fingerprints by the teacher.

Section 1012.56 Section 1012.56, F.S., currently requires applicants for teacher certification to file a written statement, under oath, that the applicant subscribes to and will uphold the principles of the state and federal constitutions. Under current law, applicants must submit to fingerprint checks and, if a criminal history is indicated, the applicant's records are referred to the Bureau of Educator Standards for review and determination of eligibility for certification. The applicant must also demonstrate general knowledge, mastery of subject area knowledge, and mastery of professional preparation and education competence; one way permitted for demonstrating such

knowledge is to hold a valid certificate in the specific or general area from the National Board for Professional Teaching Standards.

Section 1012.585 Under current law, educators who are required to complete training in teaching students with limited English proficiency may carry over certain college credits or inservice points accrued during one certificate period toward renewal of a professional certificate during subsequent periods. The section also permits a teacher holding a temporary certificate to use college credits or certain inservice points toward renewal of the teacher's first professional certificate, provided that the training was not included within the degree program and that the temporary and professional certificates are issued in consecutive school years.

Section 1012.79 Currently, the Education Practices Commission (EPC) designates seven commission members, four of whom are teachers, to approve final orders in cases of complaints against teachers. Cases regarding complaints against administrators are reviewed by a panel of seven commission members, four of whom are administrators.

Section 1012.795 Under current law, the EPC may suspend an educator certificate for 3 years or may revoke the certificate of any person for 10 years or permanently, in all cases thereby denying that person the right to teach. The section also lists the actions that would cause a person to be subject to these penalties.

The section currently requires the EPC to revoke an educator's certificate for at least 1 year under certain specific circumstances, which generally involve having had multiple findings of probable cause made against the educator or having been subject to sanctions by the Commissioner or the EPC on two previous occasions.

Section 1012.796 Current law requires the DOE to notify a certificateholder and the district school superintendent in which the certificateholder is employed upon undertaking an investigation about such person. The DOE is also required to notify the certificateholder of the substance of any complaint that has been filed against him or her, with certain exceptions.

### ***Information related to background check requirements***

#### **Teachers**

Sections 1012.56 and 1012.57, F.S., require, in pertinent part, a teacher applicant or an adjunct teacher applicant, respectively, to submit to fingerprint checks by the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigation (FBI) for initial certification. In addition, the DOE reviews the background check on a teacher whose certificate has expired and who has not continuously been employed at a school district for one year or more. Although s. 1012.21, F.S., authorizes the DOE to periodically conduct criminal history record checks on teachers, the DOE as a practice does not conduct any further background checks of a teacher who has not had an interruption in service of a year or more. Accordingly, most teachers undergo criminal background checks only once for the duration of their employment.

If an applicant's fingerprint results indicate a criminal history or if the applicant acknowledges a criminal history, the applicant's records must be referred to the investigative arm of the DOE for review and determination of eligibility for certification.

According to the DOE, teacher certificate applicant's fingerprints are reviewed under a level 2 screening standard. Under s. 435.04, F.S., all employees in positions designated by law as positions of trust or responsibility are required, at a minimum, to undergo level 2 security background investigations consisting of fingerprinting, statewide criminal juvenile records checks through the FDLE, and federal criminal records checks through the FBI. In addition, the investigations may include local criminal records checks through local law enforcement agencies.

The purpose of the background investigations is to ensure that persons subject to these provisions have not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of 45 enumerated provisions of state law or under any similar statutes of another jurisdiction.

Under penalty of perjury, all employees in positions of trust or responsibility must attest to meeting the requirements for qualifying for employment and agree to immediately inform the employer of any subsequent convictions under any of the disqualifying offenses. Employers of these employees who are licensed or registered by a state agency must annually submit to the licensing agency, under penalty of perjury, an affidavit of compliance with the requirements of s. 435.04, F.S..

#### Qualifications of Personnel/Direct Student Contact

Under s. 1012.32, F.S., all personnel who are hired to fill positions requiring direct contact with students in any district school system or university lab school must, upon employment, file a complete set of fingerprints taken by an authorized law enforcement officer or a trained school district employee. The fingerprints must be submitted to the FDLE for state processing and to the FBI for federal processing. Fingerprint processing costs may be borne by the district school board or the employee.

New employees are on probationary status pending fingerprint processing results and determination of compliance with standards of good moral character. The law prohibits the employment of a person in any position requiring direct contact with students if he or she is found to have been convicted of a crime involving moral turpitude. Probationary employees terminated because of their criminal record are entitled to appeal these decisions.

Personnel who have been fingerprinted or screened under this provision and who have not been unemployed for more than 90 days are not required to be reprinted or rescreened.

The DOE has interpreted s. 1012.32, F.S., to require background checks of all individuals having direct contact with students whether employed by the district or under contract with the district. However, according to the DOE, it does not receive criminal background checks on noninstructional personnel. These background checks are reviewed at the district level.

### Charter schools

Under s. 1002.33(12)(g), F.S., charter schools must employ or contract with persons who have been fingerprinted, as provided for in s. 1012.32, F.S. In addition, charter school board members are subject to fingerprinting requirements. The fingerprints of charter school certified teachers are submitted to the DOE through the school district having jurisdiction over the charter school.

### **III. Effect of Proposed Changes:**

Sections 1 and 2. The category of persons who are prohibited from lawfully denying or failing to acknowledge arrests related to expunged or sealed criminal history records under ss. 943.0585 and 943.059, F.S., is made broader by the bill. Under current law, only persons seeking employment or licensure by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the DOE are prohibited from denying or failing to acknowledge arrests related to expunged or sealed records. The bill broadens this prohibition to include *any* person seeking employment or licensure by the DOE, and also adds persons seeking employment or licensure by any university laboratory school, any charter school, and any private or parochial school.

Section 3. The committee substitute amends s. 1002.33, F.S., to require level 2 background screening of charter school employees and board members. Charter school employees and board members are already subject to fingerprinting requirements under current law.

Section 4. The bill permits students in teacher preparation programs to demonstrate the mastery of general knowledge required for admission into approved teacher preparation programs by passing the General Knowledge Test of the Florida Teacher Certification Examination, in addition to the other tests already permitted by law.

The bill also requires teacher preparation programs approved by the DOE to provide a certification ombudsman to facilitate the certification process for graduates.

The bill authorizes postsecondary institutions offering teacher preparation programs and community colleges, in collaboration with school districts, to develop and implement new programs that would provide short-term field experience as teacher assistants to individuals with baccalaureate degrees who are interested in teaching. This experience would be provided prior to the person beginning a teacher preparation or alternative certification program. The experience may be accepted for use in teacher preparation and competency-based alternative certification programs, if applicable.

Section 5. The committee substitute defines and authorizes educator preparation institutes. These institutes would be created by authorized postsecondary institutions and approved by the DOE. The educator preparation institutes can be formed for any of the following purposes:

- Professional development instruction for teachers to improve classroom instruction and to meet certification and recertification requirements
- Instruction to assist potential and existing substitute teachers
- Instruction to assist paraprofessionals in meeting education and training requirements

- Instruction for baccalaureate degree holders to become certified teachers (to increase the educational routes for college graduates who were not education majors to become classroom teachers)

Approved educator preparation institutes may offer alternative certification programs specifically designed for non-education-major baccalaureate degree holders to enable program participants to meet educator certification requirements. All such alternative programs must be approved by the DOE. The bill provides criteria for approval of alternative certification programs that includes requirements as to instructional content and field experience. Programs must also provide certification ombudsmen to facilitate the certification process for graduates.

Program participants must meet specified certification requirements, participate in appropriate field experience, demonstrate ability to teach in the subject area for which they are seeking certification, and demonstrate mastery of professional preparation and education competency by passing the professional education competency exam required by state board rule.

After completion of the program, participants will be eligible for educator certification if they satisfy all requirements for certification set forth in s. 1012.56(2). Alternative certification programs approved under the section may be used by school districts served by the institution that offers the program.

Institutions approved for programs under the section must submit annual performance evaluations of the program's effectiveness to the DOE. The bill specifies elements that must be included in the evaluation process.

Instructors for the alternative certification programs must have a master's degree in education or a master's degree in an appropriate related field and documented teaching experience.

Educator preparation institutes are eligible to receive federal and state funding. The bill provides rulemaking authority for the State Board of Education to implement the section.

Section 6. CS/SB 2986 adds several provisions to s. 1012.05, F.S., to enhance teacher retention efforts by the DOE. Under the bill, the DOE is required to:

- create guidelines and identify best practices for the mentors of first-time teachers and for new teacher-support programs;
- develop and implement an online Teacher Toolkit containing a menu of resources that teachers can use to enhance classroom instruction and increase effectiveness; and
- establish an Educator Appreciation Week to recognize the contributions of educators.

The bill requires district school boards to adopt policies relating to mentors and support for first-time teachers based on guidelines issued by the DOE. It also requires the Commissioner of Education to take steps that provide flexibility and consistency in meeting the high quality teacher criteria as defined in the No Child Left Behind Act of 2001 through the high, objective, uniform state system of evaluation.

Section 7. The committee substitute amends s. 1012.32, F.S., to require level 2 background screening of all personnel who are hired or contracted with to fill positions that require direct contact with students. This requirement applies to instructional and non-instructional personnel in the district school system, university laboratory schools, charter schools and alternative schools. It also applies to members of governing boards of charter schools, regardless of whether such persons have direct contact with students. The committee substitute deletes a provision in law authorizing probationary status pending fingerprint results. In addition, the committee substitute eliminates the 90-day exception for certain employees who were previously fingerprinted or screened to meet the new screening requirements. The cost of the screening may be borne by the school district, charter school, employee, contractor, or other person subject to the section.

The committee substitute requires the FDLE to retain the fingerprint records of all personnel described in the section who are required to undergo background screening in the school districts, charter schools, and university lab schools. The FDLE must enter these records into the statewide automated fingerprint identification system authorized by s. 943.05(2)(b), F.S. According to the FDLE, the statewide automated system should be online in January, 2005.

The committee substitute codifies current practice in that the Department of Education requires background checks of noninstructional employees and contractors having direct contact with children. The bill would explicitly endorse the Department of Education's interpretation of the term "personnel" in s. 1012.32, F.S., to include contractors in compliance with current practice. The school districts submit the fingerprints of a prospective noninstructional employee or contractor having direct contact with a student to the FDLE for state processing and to the Federal Bureau of Investigation for federal processing. Any criminal history matches are reported to the district. Persons subject to the section who are found to have been convicted of a crime of moral turpitude may not be employed, engaged to provide services, or serve in any position requiring direct contact with students.

The FDLE is required to adopt a rule setting the amount of the annual fee to be imposed on each school district for performing these searches and establishing procedures for the retention of fingerprints and the dissemination of search results. This fee will be paid by the district school board, the contractor, or the person being fingerprinted.

Section 8. CS/SB 2986 adds substantially to the statutory requirements for employing substitute teachers. Under current law, such procedures are developed at the district level and need only include a fingerprint check (although districts may adopt other qualifications also). This bill would require substitute teachers to have a high school diploma or the equivalent. Substitute teachers would also be required to complete an initial orientation and training program in certain district policies and procedures. Candidates with no prior teaching experience would be required to complete additional training, including training in management skills and instructional strategies. Required training programs for substitute teachers may be provided by community colleges, colleges of education, district school boards, educational consortia, or commercial vendors.

The bill recommends ongoing training for substitute teachers, requires the DOE to develop web-based resources to enhance district substitute teacher orientation programs, and requires districts

to develop performance appraisal measures for assessing the quality of instruction delivered by substitutes who provide instruction for 30 or more days in a single classroom placement.

Section 9 The bill revises minimum state law qualifications for substitute teachers to require substitute teachers (1) to have a high school diploma or the equivalent and (2) to complete an initial orientation and training program regarding certain district policies and procedures.

Section 10. The committee substitute creates s. 1012.465, F.S., to provide for background screening requirements for certain noninstructional school district employees or contractors who have direct contact with students or who have access to or control of school funds. These individuals must meet the level 2 screening requirements in s. 435.04, F.S., for initial employment. They are also subject to level 2 background screenings every five years and are required to resubmit their fingerprints if for any reason the FDLE does not retain the prints as required by law. Costs may be borne by the district school board, the contractor, or the person being fingerprinted.

The employees must agree to inform the employer or the party with whom they are under contract within 48 hours if they are convicted of any disqualifying offense while employed or under contract. Employees who have direct contact with students or who have access to or control of school funds and who fail to meet the background requirements must immediately be suspended. An employee must remain suspended until final resolution of any appeals.

Section 11 CS/SB 2986 requires the DOE to identify appropriate educator certification for instructors of specified courses in an annual publication of course code numbers for all programs and courses that are funded through the FEFP.

This section also subjects commissioned or non-commissioned military officers who are instructors of junior reserve officer training to level 2 background screening under s. 1012.32.

Section 12 The bill requires the DOE to issue, within 90 days of receipt of a teacher certification application, one of the following:

- a certificate and a document explaining certification renewal requirements,
- a temporary certificate under certain circumstances, or
- an official statement of status of eligibility if the applicant does not meet certification requirements.

It further revises educator certification requirements as follows:

- It requires each applicant for teacher certification to file an affidavit swearing to the fact that the information provided in his or her application for certification is true, accurate and complete. The affidavit is also required to give a warning that giving false information on the application is a criminal offense and could make the person subject to criminal prosecution or disciplinary action by the EPC.
- It requires applicants to submit to level 2 background screening and provides that, in the event a fingerprint check or information from an applicant indicates a criminal history,

the applicant's records must be referred to the investigative section of the DOE for review and determination of eligibility for certification.

The bill also adds a new subsection to s. 1012.56, F.S., dealing with background checks, which requires teacher certification applicants to submit to level 2 background screenings at the time of initial certification, unless such a screening has been conducted by the school board or the DOE within 12 months before the date of initial certification, and every five years thereafter. Certificates may not be issued until the screening has been completed and the results have been submitted by FDLE to the district school superintendent or the DOE. Under penalty of perjury, each certificateholder is required to inform his or her employer within 48 hours if he or she is convicted of any disqualifying offense while employed in a position requiring a certificate.

Certificateholders who do not meet the background screening requirements must be suspended from their positions and their certificates must be immediately revoked or suspended.

Section 13 CS/SB 2986 requires each certified educator and applicant for certification to maintain his or her current address with the DOE and to notify the DOE in writing of a change of address. Current mailing addresses are required to be on file by January 1, 2005. After that time, school districts must be notified of a change of address within 10 days after the change. Districts must then notify the DOE monthly of address changes. The bill also provides for notification directly to the DOE by educators or applicants not employed by district school boards.

Section 14. The committee substitute amends s. 1002.57, F.S., to require background screenings for initial certification and every 5 years for adjunct (part-time) teachers.

Section 15 The bill applies the current law requirements (in s. 1012.585, F.S., described above) for teachers who are required to complete training in teaching students of limited English proficiency to those teachers who are required to complete training in the teaching of reading.

Section 16 The bill changes the number of EPC members designated to approve final orders in cases of complaints against teachers and administrators. Cases involving complaints against teachers would be reviewed by 5 commission members, 3 of whom are teachers, and cases involving complaints against administrators would be reviewed by 5 commission members, 3 of whom are administrators.

Section 17 CS/SB 2986 permits the EPC to suspend a certificate for up to 5 years. It also provides that suspension and revocation prohibit a person from teaching *and* from being otherwise employed by a district school board or public school in any capacity requiring direct contact with students. Certain actions are added to the list of actionable behavior that could result in revocation or suspension, including: attempting to obtain an educator certificate by fraudulent means; having had an educator certificate sanctioned by revocation, suspension or surrender in another state; and having been the subject of a court order or plea agreement in any jurisdiction that requires the certificateholder to permanently surrender or otherwise relinquish his or her educator's certificate, subject to a finding of probable cause by the Commissioner of Education (Commissioner) as provided in s. 1012.796.

The bill also provides that show cause orders regarding violations of final orders should be requested of the EPC by the Department of Education, and permits the Department of Education to dismiss an order to show cause before the EPC enters a final order. The bill provides that the EPC may fashion further penalties in its discretion when it considers the show cause order.

The bill requires the EPC to adopt rules requiring the issuance of a final order permanently revoking an individual's teacher certificate if the person has been the subject of sanctions by the EPC twice before. An exception is made for sanctions related to administrative violations, which will include a failure to submit annual reports and failure to pay a probation fee. Additionally, any sanction levied by the EPC against an applicant for certification is not subject to this provision if the applicant was not previously sanctioned by the EPC. Provisions of current law regarding automatic 1-year revocations of certificates are repealed.

Section 18 The bill requires the DOE to notify not just certificateholders but also applicants for certification regarding investigations of complaints. The DOE is also required to provide notification of investigations to university laboratory schools, charter schools, and private schools in which the certificateholder or applicant for certification is employed or was employed at the time the alleged offense occurred. Under the bill, applicants for certification would now be entitled to receive information about the substance of any complaint against them, subject to limitations included in current law.

The bill would also require law enforcement agencies, state attorneys, social service agencies, district school boards, and the Division of Administrative Hearings to cooperate in investigations and to provide unredacted documents to the DOE to further investigations under the section. Further disclosure of documents received under the section is prohibited.

The bill places substantial additional requirements on educators who have been placed on probation by the EPC, including notification requirements, facilitation of annual reports to the DOE, payment of administrative and other costs, and compliance with rules. In addition to penalties existing in current law, the EPC could also refer the teacher, administrator, or supervisor to the recovery network program established in s. 1012.798, F.S.

The bill provides that the DOE may request an order to show cause from the EPC if a violation of a final order occurs. It provides that the order to show cause should relate to violations of the final order, not to any violation of probation. All terms of the final order will remain in full force and effect (unless changed by the EPC) until the issue is resolved by the EPC, except that the probation period will be tolled during this time.

Section 19 Section 19 of the bill revises provisions related to the recovery network program for educators. The bill provides that applicants for certification, as well as certificateholders, are eligible for assistance through the program. It also specifies that individuals may participate in the program voluntarily or be directed to participate through a deferred prosecution agreement with the Commissioner or a final order of the EPC.

The bill revises current law to provide that a person may be enrolled in a treatment program by the recovery network program after an investigation under s. 1012.796, F.S., has commenced, under certain circumstances as set forth in current law. It revises conditions for the

Commissioner to enter into a deferred prosecution agreement with an educator by permitting the Commissioner to take the interest of the educator into account as well as the interest of the state.

CS/SB 2986 revises determinations of ineligibility to provide that the determination must be made by the network recovery program administrator or his or her designee after review of the case, instead of by the Commissioner. The program administrator is now also required to determine when a person is ineligible for further assistance such that the deferred prosecution agreement may be revised or the charges subject to deferred prosecution may be alleged.

The bill provides that, if treatment through the program is a condition of a final order of the EPC, the program administrator's determination of ineligibility constitutes a finding that the person failed to comply with the final order. The bill language removes the reference to probable cause set forth in current law. The bill provides that, when a determination of ineligibility is made by the program administrator, the clerk of the EPC must issue an order to show cause upon request of the DOE, or, in the alternative, that the Commissioner may issue an administrative complaint. The bill provides that the program administrator, not the Commissioner, must issue a written notice stating the reasons for any determination of ineligibility relative to persons who voluntarily enter into a treatment contract with the program.

The bill will take effect upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill streamlines the disciplinary procedures engaged in by the Education Practices Commission to increase efficiency and cost savings; a reduction of procedures, however, may sometimes foster claims of violations of procedural due process as required by case law developed under the Fourteenth Amendment to the U.S. Constitution. While no aspect of the bill on its face suggests due process concerns, it will be necessary in implementing the changes set forth in the bill to ensure that all necessary due process is accorded individuals subject to disciplinary action by the EPC.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Some substitute teachers will likely incur costs related to obtaining necessary additional education required under the bill. Additionally, educators subject to discipline will be required to assume certain administrative and enforcement costs related to their cases under the bill's provisions. If background check costs are not absorbed by school districts, they will be imposed on personnel. Additional information regarding costs of background checks is set forth below.

**C. Government Sector Impact:**

Data are not available to determine the government sector fiscal impact at this time; however, provisions of the bill that could, depending on implementation, require indeterminate additional funding would be those related to the collection, processing and retention of fingerprint records by the FDLE, required rescreening every 5 years, the creation of educator preparation institutes, the creation of programs for alternative certification, provisions regarding substitute teacher training, and the implementation of additional teacher retention and certification requirements by the DOE. It is possible that postsecondary institutions could operate educator preparation institutes out of existing funds.

The committee bill provides that the employee or the district school board may pay for required background screening. The fee for a criminal history check at the state level is currently \$23.00. According to the FDLE, the total costs of the initial screening total approximately \$60: \$23 for state screening, \$24 for FBI federal screening, and \$12 for the vendor who furnishes equipment to the district. Additionally, there is an annual fee for each district to have the prints retained and for the rescreening every five years. The fee is to be set by FDLE rule.

The committee substitute requires the FDLE, beginning on July 1, 2004, to retain all fingerprint records submitted on school district, charter school, and university lab school personnel for entry into the statewide automated fingerprint identification system authorized by s. 943.05(2)(b), F.S. The state's automated fingerprint identification system should be online by January 2005. The FDLE had anticipated retaining all fingerprint records beginning in December, 2004. There may be an indeterminate fiscal impact associated with collecting and entering the fingerprint records six months ahead of schedule.

The rescreening every five years should cost approximately \$24. This sum will be paid to the FBI for federal screening. There will not be a need for state screening at that time because the arrest records will be screened against the retained prints on a regular basis.

There will also be no need for an additional vendor charge, since the individual will have already been fingerprinted.

**VI. Technical Deficiencies:**

Page 43, line 29 contains a typographical error, a reference to “administrators” that instead says “administer.” Page 20, line 22, contains a reference to “high-quality teacher criteria” that should be changed to refer to “highly qualified teacher criteria” in conformity with the language of the No Child Left Behind Act.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.

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